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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/898,978	07/02/2001	Fred A. Bower III	BEA920010009US1	9953
49056	7590	04/13/2005	EXAMINER	
LIEBERMAN & BRANDSDORFER, LLC 12221 MCDONALD CHAPEL DRIVE GAITHERSBURG, MD 20878			VO, LILIAN	
			ART UNIT	PAPER NUMBER
			2195	

DATE MAILED: 04/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/898,978

Applicant(s)

BOWER, FRED A.

Examiner

Lilian Vo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 - 26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1 – 26 are pending.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 1 - 26 are rejected under 35 U.S.C. 101 because they are directed to non-statutory subject matter.

4. **Claims 1 – 9 and 25 – 26** are directed to method steps, which can be practiced mentally in conjunction with pen and paper, therefore they are directed to non-statutory subject matter. Specifically, as claimed, it is uncertain what performs each of the claimed method steps. Moreover, each of the claimed steps, inter alia, receiving, launching, placing, setting, resetting, storing, maintaining, can be practiced mentally in conjunctions with pen and paper. The claimed steps do not define a machine or computer implemented process [see MPEP 2106]. Therefore, the claimed invention is directed to non-statutory subject matter. (The examiner suggests applicant to change “method” to “computer implemented method” in the preamble to overcome the outstanding 35 U.S.C. 101 rejection).

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5. **Claims 19 – 24** claim a computer readable signal bearing medium is non-statutory for incapable of being touched or perceived absent the tangible medium through which they are conveyed.

6. Regarding **claims 10 - 18**, the system is at best a software system, per se, failing to be tangibly embodied or include any recited hardware as part of the system.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1 - 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore et al. (US Pat. Application Publication US 2004/0133609, hereinafter Moore) in view of Logue et al. (US 6,647,421, hereinafter Logue).

9. Regarding **claim 1**, More discloses a method for spawning a lower priority task from a higher priority task comprising:

(a) receiving a message from a client/remote server (page 4, paragraph 79 and 81, page 5, paragraphs 88 - 89: receiving a request from a client. Fig 4); and

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(b) launching a lower priority task (page 4, paragraph 79 and 81, and page 5, paragraphs 88 - 89: dispatcher dispatches the request to the proper request handler to perform service such as I/O operations).

Moore discloses that request can be originated from a remote server and not from the remote administrator. Nevertheless, Logue discloses the receiving of the request is from the remote administrator (col. 6, lines 15 – 19: receive request from remote administrator). It would have been obvious for an ordinary skill in the art, at the time the invention was made, to incorporate Logue's teaching with Moore by servicing requests from remote administrator in addition to client so that services can be provides to a variety of source within the network as needed.

10. Regarding **claim 2**, Moore discloses the step of launching said lower priority task includes an agent (fig. 4, page 4, paragraph 79 and 81, and page 5, paragraphs 88 - 89: dispatch the request to the proper request handler to perform service such as I/O operations).

11. Regarding **claim 3**, Moore discloses the step of receiving the message from the remote source includes a dispatcher (page 4, paragraph 79 and 81, and page 5, paragraphs 88 - 89: dispatcher dispatches the request to the proper request handler to perform service such as I/O operations).

12. Regarding **claim 4**, Moore discloses the dispatcher placing the request/message in a data structure (page 4, paragraph 80, page 5, paragraph 86- 89: the data set is registered in MCAT server and kept all relevant information associated with the data set for each call/request).

13. Regarding **claim 5**, Moore did not clearly disclose the step that the dispatcher sets the flag for signaling the receipt of the message. However, Moore discloses that the dispatcher listening for incoming requests and dispatches the requests to the proper request handlers (page 4, paragraph 79). It would have been obvious for an ordinary skill in the art, to incorporate Moore's system with a step of setting a flag for signaling the receipt of request by the dispatcher when receiving a request that forward it to a particular request handler (process agent) to be processed because Moore has different type of agents to handle different level of request.

14. Regarding **claim 6**, Moore discloses the step of launching the lower priority task includes an agent, the agent reading the data structure (fig. 4, page 4, paragraph 79 and 81, and page 5, paragraphs 88 - 89: dispatcher dispatches the request to the proper request handler to perform service such as I/O operations. Page 5, paragraph 86- 89: the data set is registered in MCAT server and kept all relevant information associated with the data set for each call/request).

With respect to the agent receiving the flag, this concept is considered well know in the art. Furthermore, it would have been obvious for an ordinary skill in the art, to incorporate Moore's system with the step of setting a flag for signaling the receipt of request by the dispatcher to a particular request handler (agent) when receiving a request since certain type of request will be handled by the appropriate request handler (process agent).

15. Regarding **claim 7**, Moore did not clearly disclose the step that the agent resets the flag associates with the receipt message. However, Moore discloses that the dispatcher listening for incoming requests and dispatches the requests to the proper request handlers (page 4, paragraph

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79). It would have been obvious for an ordinary skill in the art, to incorporate Moore's system with the step of resetting the flag by the request handler (agent) after finish processing the request because different request handler will process a particular type of request.

16. Regarding **claim 8**, Moore discloses the step of launching said lower priority task includes responding to said message (page 4, paragraph 79: the dispatcher is also responsible for returning the results to clients).

17. Regarding **claim 9**, Moore discloses the higher priority task includes maintaining a level of operation (page 4, paragraph 79: the dispatcher listens for incoming requests and dispatches the requests to the proper request handler).

18. Regarding **claim 10**, Moore discloses a computer system comprising:

a higher priority task (page 4, paragraph 79: the dispatcher listens for incoming requests and dispatches the requests to the proper request handler);

a remote server (page 4, paragraph 79 and 81, page 5, paragraphs 88 - 89: receiving a request from a client/remote server. Fig 4);

a message manager to receive a message from the client/server (page 4, paragraphs 79, 81: the dispatcher listens for incoming requests and dispatches the requests to the proper request handler. Page 5, paragraphs 88 - 89: receiving a request from a client/remote server. Fig 4); and

a task manager to launch a lower priority task (page 4, paragraph 79, page 5, paragraphs 81, 86 - 89: request handler processes the request) .

Moore discloses that request can be originated from a remote server and not from the remote administrator. Nevertheless, Logue discloses the receiving of the request is from the remote administrator (col. 6, lines 15 – 19: receive request from remote administrator). It would have been obvious for an ordinary skill in the art, at the time the invention was made, to incorporate Logue's teaching with Moore by servicing requests from remote administrator in addition to client so that services can be provided to a variety of source within the network as needed.

19. Regarding **claim 11**, Moore discloses the message manager is a dispatcher (page 4, paragraph 79 and 81, and page 5, paragraphs 88 - 89: dispatcher dispatches the request to the proper request handler to perform service such as I/O operations).

20. Regarding **claim 12**, Moore discloses the task manager is an agent (fig. 4, page 4, paragraph 79 and 81, and page 5, paragraphs 88 - 89: dispatch the request to the proper request handler to perform service such as I/O operations).

21. **Claims 13 – 18** are rejected on the same ground as stated in claims 4 - 9 above.

22. **Claims 19 and 20** are rejected on the same ground as stated in claims 1 above.

23. **Claims 21 - 24** are rejected on the same ground as stated in claims 4 - 9 above.

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24. Regarding **claim 25**, Moore discloses a method for spawning a lower priority task comprising:

receiving a message from a client/remote server (page 4, paragraph 79 and 81, page 5, paragraphs 88 - 89: receiving a request from a client. Fig 4);

storing the request/message in a data structure (page 4, paragraph 80, page 5, paragraph 86- 89: the data set is registered in MCAT server and kept all relevant information associated with the data set for each call/request); and

launching a lower priority task in response to said message (page 4, paragraph 79 and 81, and page 5, paragraphs 88 - 89: dispatcher dispatches the request to the proper request handler to perform service such as I/O operations).

Moore discloses that request can be originated from a remote server. He did not clearly disclose the message is received from the remote administrator. Nevertheless, Logue discloses the receiving of the request is from the remote administrator (col. 6, lines 15 – 19: receive request from remote administrator). It would have been obvious for an ordinary skill in the art, at the time the invention was made, to incorporate Logue's teaching with Moore by servicing requests from remote administrator in addition to client so that services can be provides to a variety of source within the network as needed.

With respect to the step of setting a flag, Moore did not clearly disclose the step that setting a flag associates with the receiving of a message/request. However, Moore discloses that the dispatcher listening for incoming requests and dispatches the requests to the proper request handlers (page 4, paragraph 79). It would have been obvious for an ordinary skill in the art, to incorporate Moore's system with the step of setting a flag for signaling the receipt of request by the dispatcher when receiving a request that forward it to a particular request handler (process

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agent) to be processed because Moore has different type of agents to handle different level of request.

25. **Claim 26** is rejected on the same ground as stated in claim 9 above.

Response to Arguments

26. Applicant's arguments filed 1/4/05 have been fully considered but they are not persuasive for the reasons set forth below.

27. On page 3, last paragraph – page 4, 1st paragraph, applicant argues in essence that Moore does not teach communication with a remote administrative. Applicant is directed to Logue, col. 6, lines 15 – 19. Logue have specifically taught the communication with a remote administrator. Therefore, this argument is moot.

28. In response to applicant's arguments against the references individually (page 4, 1st – 3rd paragraph, page 5, 1st paragraph), one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

29. In response to applicant's argument that Logue is nonanalogous art (page 4, 2nd paragraph), it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the

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applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Logue discloses a system, which providing communication with a remote administrator.

30. In response to applicant's argument that there is no suggestion to combine the references (page 4, 2nd paragraph – page 5, 1st paragraph), the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation for the rejection is found in the knowledge generally available to one of ordinary skill in the art.

31. In response to applicant's argument that the combination of the prior art references is improper (page 5, 1st, 3rd paragraph – page 6, 1st paragraph), the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

32. Applicant's arguments for claims 5 – 7, 15 – 17, 22, 23 and 25 on page 5, 2nd paragraph, fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims

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define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

With respect to the limitation the dispatcher setting a flag for signaling receipt of message, this can be seen as obviousness from Moore on page 4, paragraph 79, in which Moore discloses that the dispatcher listening for incoming requests and dispatches the requests to the proper request handlers. It would have been obvious for an ordinary skill in the art, to modify Moore's system with incorporating a step of setting a flag for signaling the receipt of request by the dispatcher when receiving a request that forward it to a particular request handler (process agent) to be processed because Moore has different type of agents to handle different level of request.

Conclusion

33. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Agee et al. (US 6,621,851) disclosed step of setting and resetting the flag associates with the receiving message.

34. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lilian Vo whose telephone number is 571-272-3774. The examiner can normally be reached on Monday - Thursday, 7:30am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on 571-272-3756. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2100 Group receptionist: 571-272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lilian Vo
Examiner
Art Unit 2195


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